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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Revision of the Commission's)
Rules to Ensure Compatibility)
with Enhanced 911 Emergency)
Calling Systems)

CC Docket No. 94-102

To: The Commission

EX PARTE OR LATE FILED

**EX PARTE COMMENTS OF APCO
IN OPPOSITION TO
PETITION FOR RECONSIDERATION OF FOCUSYSTEMS, INC.**

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following *ex parte* comments in opposition to the Petition for Reconsideration filed on November 1, 2000, by FocuSystems, Inc. ("FocuSystems") which seeks to overturn portions of the Commission's *Fourth Memorandum Opinion & Order* in the above-captioned proceeding, FCC 00-326, released September 8, 2000, 65 Fed. Reg. 58657 (October 2, 2000).¹

APCO is the nation's oldest and largest public safety communications organization. Most of APCO's over 15,000 individual members are state or local government employees who manage and operate police, fire, emergency medical, forestry conservation, highway maintenance, disaster relief, and other communications systems that protect the safety of life, health and property. These systems include radio

¹ These comments are filed as an *ex parte* communication as the time for filing a formal "opposition" expired on November 30, 2000. 65 Fed. Reg. 69014 (Nov. 15, 2000). APCO notes, however, that these comments are being filed and served on FocuSystem's counsel prior to the deadline for filing replies to oppositions.

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communication operations, telecommunications and information networks, and Public Safety Answering Points (PSAPs). APCO has participated in all stages of this proceeding.

The *Fourth Memorandum Opinion & Order* contains a thorough and exhaustive analysis of the Phase II requirements for implementing wireless E9-1-1. The Commission carefully considered the state of the technology for providing E9-1-1 location, including the status of handset-based technologies. Based upon that analysis, the Commission made certain across-the-board modifications to the implementation schedule, and established guidelines for consideration of waivers sought by wireless carriers.²

Now, FocuSystems, a location technology provider that did not participate in the proceeding below, requests reconsideration of and further modifications to the Commission's *Fourth Memorandum Opinion & Order*. Specifically, FocuSystems asks the Commission to "modify its rules or otherwise clarify that it will grant waivers of its handset activation benchmarks to carriers not yet subject to a valid PSAP request for Phase II service."³ FocuSystems' stated intent is to provide carriers additional time to implement FocuSystems' own location technology. APCO opposes this proposed change as it would result in unnecessary delay in the provision of E9-1-1 service to the public.

The Commission's decision in the *Fourth Memorandum Opinion & Order* was based on its assessment that "there are a number of location technologies that are

² The Commission also granted a waiver for VoiceStream Wireless. APCO has sought reconsideration of that aspect of the Commission's decision.

³ FocuSystem Petition at 4.

currently, or will soon be, available to carriers and that these technologies provide carriers with a reasonable prospect of meeting the Commission's accuracy and reliability requirements for Phase II."⁴ Of course, there will always be technology vendors such as FocuSystems that claim to have something better on the way, and who urge the Commission to provide a just bit more time for the development of their product. The Commission has recognized, however, that the time has come for it "put a stake in the ground." The public cannot afford for the Commission to delay E9-1-1 deployment any further merely because a vendor claims that improvements are on the horizon.

FocuSystem's specific proposal to condition implementation of handset solutions on PSAP requests is also unworkable, and counterproductive. The Commission has already recognized the need to move forward on handset deployment, even before all PSAPs have Phase II readiness. As explained in the *Third Report and Order*, at ¶23:

The requirements that ALI-capable handsets begin to be sold before . . . any PSAP request will ensure that handsets are available to customers, particularly customers who might use the handsets while roaming in areas served by carriers and PSAPs that have upgraded to Phase II. Moreover, we expect that the phase-in schedule will spur other ALI-based services and create an awareness and constituency for Phase II E911. Early introduction is also likely to lead to reduced ALI costs over time as a result of competition, economies of scale, and technological improvements.

The Commission's original handset implementation rules did include certain additional benchmarks that would have been triggered by PSAP requests for Phase II. However, the Commission eliminated those benchmarks in the *Fourth Memorandum Opinion & Order* concluding that the such requirements are "at least difficult, if not impossible, to

⁴ *Fourth Memorandum Opinion & Order* at ¶23.

implement.”⁵ A better approach, as adopted by the Commission, requires carriers to move forward with deployment of location capable handset without regard to PSAP requests. Relying on PSAP requests creates artificial and ill-defined distinctions between geographic areas within a carriers’ service area and, moreover, will postpone the day when virtually all wireless callers have the benefit of E9-1-1 capability.

The handset option is necessarily implemented on an incremental basis as new handsets are deployed and existing non-compliant handsets are replaced. Thus, the longer that carriers wait to make location capable handsets available (with or without regard to a PSAP request), the longer it will take to reach full compliance. Every day of delay represents another day that new non-compliant handsets are deployed, thus increasing the base of “legacy” handsets that must be replaced over time.

Contrary to FocuSystem’s suggestions, the benefits of Phase II will accrue even to those subscribers who acquire location capable handsets before their local PSAP makes a Phase II request. Such subscribers will be “Phase II-ready” immediately upon the local PSAPs initiation of Phase II operations. In contrast, if subscribers have no choice but to acquire non-compliant handsets pending local Phase II requests, they will be “stuck” without location capability for several years until they once again replace their handsets.

Finally, APCO anticipates that PSAPs across the nation will be picking up the pace of Phase II readiness and requests for Phase II service. For its part, APCO has initiated a nationwide endeavor (known as Project 38) to educate and assist PSAPs in this regard. In the meantime, carriers must do there part and begin Phase II deployment.

⁵ *Fourth Memorandum Opinion & Order* at ¶31.

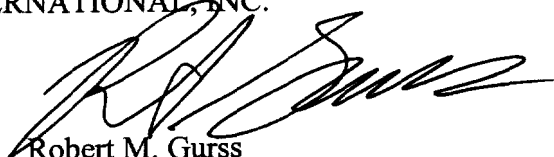
CONCLUSION

Therefore, for the reasons set forth above, APCO opposes the FocuSystem petition for reconsideration.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
COMMUNICATIONS OFFICIALS-
INTERNATIONAL, INC.

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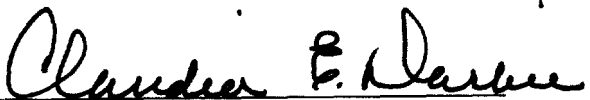
December 5, 2000

CERTIFICATE OF SERVICE

I, Claudia E. Darbie, hereby certify that a copy of the foregoing "*Ex Parte* Comments of APCO In Opposition To Petition For Reconsideration of FocuSystems, Inc." was sent this 5th day of December, 2000 via hand delivery to the following individuals at the address listed below:

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